III. CALLING CARD, PREPAID CARD, AND OPERATOR SERVICES

A. Description of Divestiture Plan

Qwest plans to discontinue the in-region interLATA components of its current calling card and operator service-related offerings, including: (1) calling cards, (2) prepaid phone cards, and (3) operator-assisted long-distance services using 0+, 0–, 101-XXXX, and similar dialing patterns.

Calling Cards. Qwest will divest its in-region calling card service to another certificated carrier and discontinue providing this service to card customers. Cardholders will continue to receive service as before, without interruption, from the new carrier over that carrier's network. The new carrier will commit not to increase customer rates for a specified period after the cutover, and thereafter will modify rates only pursuant to applicable regulatory rules. Where calling card services also are provided under contract, the buyer will assume the applicable contract obligations.

Qwest will not provide Buyer any wholesale in-region interLATA telecommunications services. Buyer may contract with Qwest to license use of Qwest's proprietary calling card platform and to receive customer care and billing support functions from Qwest. The Qwest platforms are located outside the U S WEST region in Dublin, Ohio and San Antonio, Texas. Buyer would obtain its own transport to and from the platform for purposes of transmitting customer traffic. All Qwest support would be provided under the control and direction of Buyer. All interfaces with customers will make clear that telecommunications services are provided by Buyer.

Qwest also expects to market calling card services as an agent of Buyer. Again, however, Buyer will establish all prices and be identified clearly to customers as the service provider. Qwest will not share any revenues from the provision of in-region interLATA services provided by Buyer.

Prepaid Cards. Qwest will divest its prepaid long distance card business to another interexchange carrier. That carrier will assume all responsibility for provisioning the prepaid service.

Service to customers will not be interrupted. Cards will work as normal, with traffic routed to Buyer for delivery. Buyer will commit to continue to serve customers at the applicable rates promised for cards circulating in the marketplace at divestiture. When customers contact the customer service number on the cards, they will be informed that Buyer is now the provider of interLATA services.

After the merger closing Qwest will market new prepaid cards, but only as the agent of the Buyer. The Buyer will establish all service rates and continue as the identified carrier. Qwest will not share in in-region interLATA service revenues.

Operator Services. Qwest will discontinue handling operator-assisted in-region interLATA calls using 0+, 0–, 101-XXXX, and similar dialing patterns. Any contractual commitments to provide operator services on behalf of hospitality, COCOT or other aggregators will be assigned to a new carrier who will abide by the contract terms, but otherwise will be free to establish its own rates, terms, and conditions going forward. This new carrier will be responsible for obtaining its own telecommunications network facilities to handle these calls.

B. Legal Analysis

Qwest has structured its divestiture plan to fully exit the provision of in-region interLATA card and operator services consistently with the terms of the Telecom Act. Qwest will discontinue providing either retail or wholesale in-region interLATA telecommunications services used with these products.

Qwest's residual marketing activity in this area will conform to prior precedent. For example, ever since the AT&T divestiture BOCs have offered their customers calling cards that enable customers to place interLATA calls, using the telecommunications services of other authorized carriers. 23/ Since the enactment of the Telecom Act, U S WEST and other RBOCs have continued to provide such calling card offerings pursuant to Section 271(f), which permits RBOCs and their affiliates to continue providing previously authorized services. In this regard, Qwest is patterning its continuing in-region calling card services on the existing offerings of U S WEST and other RBOCs and their affiliates. 24/ Like those

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23/ *United States v. Western Electric Co., Inc.*, 698 F.Supp. 348, 352 (D.C. 1988). In that case, the MFJ court held that RBOCs must provide all IXCs the same billing validation data services that they had been providing to AT&T, and must do so on a non-discriminatory basis. QWEST-branded calling cards, like the calling cards of most other IXCs, are "proprietary" and do not utilize the BOCs' billing validation data.

24/ *Id.*, 698 F.Supp. at 357 (RBOCs required to notify customers that calling card service provided by other carriers). *See, e.g.*, "1-800-4USWEST Calling Guide," available at http://www.us-west.com/home/pdf/18004USWESTguide.pdf ("When you dial 1-800-4USWEST, your call will be handled by: –U S WEST Communications for calls that originate and terminate in the same LATA in a U S WEST state. –U S WEST Long Distance for calls that originate outside of U S WEST states. –Frontier Communications Services for long distance calls that originate in the U S WEST

[Footnote continued]

companies, Qwest will inform consumers that a different carrier will handle in-region originating interLATA calls.

Qwest's provision of calling card platform and customer care support would not change this analysis. As discussed in the preceding section, such support functions do not constitute the provision of "telecommunications" services, and hence are permitted by the Act.

Similarly, Qwest's marketing of prepaid cards would not violate the Act. Qwest will conform its operations to accord with the structure recently approved by the Common Carrier Bureau in the context of BellSouth's prepaid activities. The Bureau held that BellSouth's prepaid card was distinguishable from unlawful teaming arrangements because it did not "capitalize on, or directly utilize, the company's local market base," nor did it "entrench[ ] its local market share or effectively pre-position[ ] itself in the long-distance market." 25/ The Bureau also found that even though BellSouth's brand appears on the card, BellSouth "does not hold itself out as providing long-distance service" through the card offering. 26/ For these reasons, and because BellSouth did not control the price, format, or other aspects of the long distance service and the prepaid card did not raise other competitive concerns, 27/ the Bureau held that the prepaid card was consistent with Section 271. The same will be true with respect to Qwest's activities. 28/

[Footnote continued]

territory and terminate in a different LATA, plus U.S. territory originating, U.S. terminating calls.") (explanatory notes omitted).

25/ *BellSouth Prepaid Card Order* at ¶¶ 25, 27.

26/ *Id.* at ¶ 30. The Bureau concluded that the BellSouth card did not raise equal access concerns because "with prepaid cards, the customer makes the choice at the point of purchase as to which carrier will carry its traffic, whereas with its post-paid card, the choice is made at the time the call is placed. Under either scenario, however, consistent with equal access concerns, the BellSouth calling card customer has the clear *choice* of carriers." *Id.* at ¶ 32 (emphasis in original).

27/ *Id.* at ¶¶ 36-37.

28/ The analysis in the *BellSouth Pre-paid Calling Card Order* should apply with equal force to Qwest's planned post-paid cards. Most significantly, QWEST-branded calling cards will not utilize or capitalize on U S WEST's local customer base. Rather, those cards will "function[ ] merely as a form of currency" – or as a billing mechanism – "that permits holders to place both local and long-distance calls when they are away from the phone that carries their presubscribed service." *BellSouth Pre-paid Calling Card Order, at* ¶ 38.

IV. INTERLATA INFORMATION SERVICES

A. Description of Divestiture Plan

Qwest will discontinue the interLATA information services, as well as the interLATA telecommunications services used in connection with other providers' information services, that it currently provides in the U S WEST region. It will continue to provide such services outside the U S WEST region, and as well as in-region information services that do not "incorporate as a necessary, bundled element an interLATA telecommunications transmission component, provided to the customer for a single charge." 29/

This change will affect two categories of Qwest offerings: (i) web hosting services for e-commerce and other Internet-based applications; and (ii) dial-up and dedicated Internet access services. Where customers currently connect to Qwest information services across U S WEST LATA boundaries, Qwest will ensure that those customers obtain transport service from another carrier. Similarly, where Qwest provides Internet access or information services that incorporate interLATA transport in the U S WEST region, it will restructure those services to separate the interLATA transport component. Insofar as Qwest has preexisting contractual commitments to provide interLATA transport or Internet access in the U S WEST region, it will divest those transport commitments to another carrier who will assume responsibility for providing the services on the same terms and conditions.

B. Legal Analysis

The Commission has held that prior to receiving Section 271 clearance, BOCs and their affiliates may offer an information service, even if an interLATA transmission service is necessary for a customer to obtain access to such a service, as long as the interLATA transmission component is separately provided by another carrier and is neither provided nor resold by the BOC. 30/ Qwest will take the necessary measures to structure its information service offerings in a manner that

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29/ *Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended*, 11 FCC Rcd 21905, 21961-21962, ¶ 115 (1996) ("*Non-Accounting Safeguards Order*").

30/ *Non-Accounting Safeguards Order*, 11 FCC Rcd at 21962-63, ¶ 117.

does not incorporate, as a necessary, bundled element, in-region interLATA transmission. It also will ensure that all prohibited interLATA transmissions in the U S WEST region are provided by a third-party carrier or carriers, who will have the direct contractual relationship for the provision of such services to customers who subscribe to Qwest's information services.

Qwest recognizes that a number of proceedings now before the Commission raise questions about whether, and to what extent, Internet-related information service offerings constitute interLATA information services. In the context of certain Internet-related offerings, the line separating information services from telecommunications services is not entirely clear. 31/ The issues raised in these proceedings are generic to the entire industry. To the extent the Commission resolves questions regarding the status of particular interLATA information services in the future, post-merger Qwest will comply fully with such conclusions.

CONCLUSION

Qwest has designed its divestiture plan to comply fully with Section 271 of the Telecommunications Act. The plan also will permit the divestiture of its existing in-region interLATA business with the least possible impact on customers. Qwest is proceeding promptly to implement this plan so that its merger with U S WEST can close as soon as possible.

Qwest looks forward to the day when it will be able to reenter the in-region interLATA market following successful implementation of the Section 271 process in the U S WEST region. Qwest is committed to working actively toward that end once the merger is closed. We have noted elsewhere how the merger will increase the incentives of U S WEST to satisfy the requirements of Section 271. The sooner the merger closes, the sooner those incentives can take effect.

31/ *See Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report to Congress, 13 FCC Rcd 11501, 11532-53, ¶¶ 66-106 (1998); *see also Bell Atlantic Tel. Cos. Offer of Comparably Efficient Interconnection to Providers of Internet Access Services*, CCBPol 96-09, Order, 11 FCC Rcd 6919, 6935-36, ¶¶ 49-51 (Com. Car. Bur. 1996), *pet. for review dismissed sub nom. Computer III Further Remand Proceedings: Bell Operating Co. Provision of Enhanced Services*, CC Docket Nos. 95-20, 98-10, Report and Order, 14 FCC Rcd 4289, 4312-13, ¶¶ 36-37 (1999); *Non-Accounting Safeguards Order*, 11 FCC Rcd at 21966-68, ¶¶ 125-27.

DECLARATION

I, Genevieve Morelli, Senior Vice President, Government Affairs, and Senior Associate General Counsel of Qwest Communications International Inc. ("Qwest"), have reviewed the foregoing "Response to Comments on Applications for Transfer of Control" and do hereby declare that all facts and statements pertaining to Qwest and its direct and indirect subsidiaries contained therein are true and complete to the best of my knowledge, information and belief.

Genevieve Morelli

Genevieve Morelli

Executed on October 18, 1999

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DECLARATION

I, Daniel L. Poole, Associate General Counsel of U S WEST, Inc. ("U S WEST"), have reviewed the foregoing "Response to Comments on Applications for Transfer of Control" and do hereby declare that all facts and statements pertaining to U S WEST and its direct and indirect subsidiaries contained therein are true and complete to the best of my knowledge, information and belief.

Daniel L. Poole

Daniel L. Poole

Executed on October 18, 1999

CERTIFICATE OF SERVICE

I, Barbara E. Clocker, hereby certify that on this 18th day of October, 1999, copies of the foregoing "Response to Comments on Applications for Control" were served by hand delivery or by overnight delivery (where indicated) to the following:

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